

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

December 14, 2012

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Hawai'i

Resubmittal-Deny Request for Extension of Lease Term Made Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3621 Crescent City Properties, Inc., Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-2-49:06.

APPLICANT AND REQUEST:

Improvements to leasehold property financed by Lessee, Crescent City Properties, Inc. pursuant to Act 207, Session Laws of Hawaii and Sections 171 36(b) in the amount of approximately \$53,700.00.

In order for Lessee to amortize this expenditure, the Lessee is requesting an extension of General Lease No. S-3621 of 10 years, commencing on February 24, 2016 and expiring on February 23, 2026 for an aggregate term (initial 55 year term plus extension) of 65 years.

LEGAL REFERENCE:

Act 207, Session Laws of Hawaii 2011
Sections 171 36(b)(3), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lot 32, Kanoelehua Industrial Lots, situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: 3rd/2-2-49:06, as shown on the attached map labeled Exhibit A.

AREA:

39,000 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Commercial/industrial purposes.

TERM OF LEASE:

55 years, commencing on February 24, 1961 and expiring on February 23, 2016. Last rental reopening occurred on February 24, 2011

Request for extension of 10 years commencing on February 24, 2016 and expiring on February 23, 2026.

ANNUAL RENTAL:

Current rent is \$30,000.00, due in semi-annual installments of \$15,000.

RENTAL REOPENINGS:

Reopenings in the original term were at the end of the 20th, 30th, 40th and 50th years of the term. The last rental reopening occurred on February 24, 2011.

Reopening for the extended term would be on November 9, 2012 (immediate reopening) if the Board grants the request.

PROPOSED IMPROVEMENTS:

The Lessee proposes to make repairs to the property, including major repairs to the roof of the warehouse and renovations to both men's and women's restrooms. The cost of these repairs is estimated to be \$53,792.00.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>__</u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>__</u>

APPLICANT REQUIREMENTS:

If the Board of Land and Natural Resources grants the requested extension, Applicant shall be required to pay for an appraisal for the immediate rental reopening.

Additionally, Lessee shall complete repairs to the structure including renovations to the restroom area and replacement of the roof in the amount of at least \$53,700.00 and submit to Land Division staff receipts verifying payment for the improvements by January 31, 2013.

REMARKS:

General Lease No. S-3621 was issued to Hawaiian Grocery Stores, Ltd. for a term of fifty-five (55) years pursuant to Act 4, First Special Session of 1960, which authorized the direct issuance of leases to victims of natural disaster (tsunami).

The lease, which began on February 23, 1961 and ends on February 23, 2016, restricted the use of the 39,000 square foot property to wholesale grocery use. A warehouse building comprising an area of some 7,680 square feet was constructed in compliance with the building requirements of the lease.

In November of 1970, the Board consented to the assignment of the lease from Hawaiian Grocery Stores, Ltd. to Sear Corporation. Sear agreed, as part of the transaction, to expand the existing warehouse by an additional 10,000 square feet.

In a September 29, 1995 letter, the Lessee requested that the Character of Use for General Lease No. S- 3621 be changed from Wholesale Grocery to light industrial to allow the Lessee a greater range of use for the property. The Board approved this request at its meeting of October 27, 1995, Item F-1-b.

At its meeting of March 10, 2000, the Board, under Agenda Item D-22, approved the Assignment of Lease from Sear Corporation to the current Lessee, Crescent City Properties, Inc.

The Lessee is in compliance with the terms and conditions of the lease. The Lessee is current with rent, insurance and performance bond. A recent inspection showed good maintenance of the property and existing structures. The current tax assessed value of the land and improvements is \$997,000 (\$546,000 for the land and \$451,000 for the building).

The Lessee's current 55-year lease is set to expire on February 23, 2016 and Lessee is requesting a 10-year extension pursuant to Act 207, Session Laws of Hawaii 2011,¹ to amortize the cost of planned repairs to the property, including roof replacement and restroom renovations at a cost in excess of \$53,700.00.

The leased premises have been used substantially for the purpose for which they were leased. There are no outstanding rental reopening issues.

Unfortunately, staff is unable to recommend a lease extension in this case. There is concern in Land Division that the lease is an underperforming asset for the State. As shown on the map attached as Exhibit A, the subject parcel is one of nine contiguous, State-owned parcels encumbered by light industrial leases that all expire in early 2016.²

¹ Act 207, Session Laws of Hawaii 2011 amends Section 171-36(b) of the Hawaii Revised Statutes by allowing the Lessee to: Extend or modify the fixed rental period of the lease: provided that the aggregate of the initial term and any extension granted shall not exceed sixty-five years.

² Most of the DLNR leases in this area were established pursuant to Act 4, First Special Session of 1960 resulting from the destruction of the Hilo bay front caused by the 1960 tsunami. On Exhibit A, the subject parcel is indicated by a red border, and the remaining eight contiguous parcels are indicated by yellow highlighting. Of the lessees on these nine parcels, to date only Crescent City Properties, Inc. has applied for a lease extension.

The subject parcel is less than one acre in size. In the Hilo area, market demand is growing for light industrial parcels in the 2-3 acre range. Instead of extending the individual leases for these nine contiguous parcels, the State could consolidate and resubdivide them into two or three larger parcels, lease the larger parcels out at public auction, and capture higher lease rents for the assets.³ Additionally, because any improvements on the property belong to the State at the expiration of the leases, the State will likely be able to bring in higher lease rents (for improved land) than it would for extensions of the existing leases.⁴

Extending the Crescent City Properties, Inc. lease by ten years would likely perpetuate the underperformance of the land and the adjoining lots for the same period. Accordingly, staff recommends against the lease extension.

RECOMMENDATION:

1. That the Board deny the requested extension of General Lease No. S-3621;

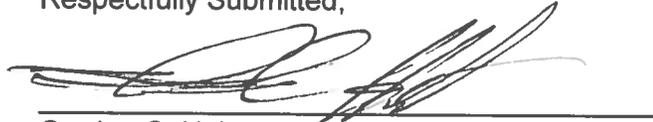
OR
2. In the event the Board decides to authorize the extension of General Lease No. S-3621, Crescent City Properties, Inc. shall comply with the Applicant Requirements and other applicable terms and conditions cited above, which are by this reference incorporated herein, and the lease extension should further be subject to the following:
 - A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;
 - B. Crescent City Properties, Inc. shall complete its repairs to the warehouse roof and renovations to the restrooms and submit to Land Division staff receipts verifying payment for the improvements by January 31, 2013;
 - C. Review and approval by the Department of the Attorney General; and

³ The last reopening of the ground rent for the Crescent City Properties, Inc. lease was in 2011 and was determined by arbitration. The arbitration resulted in an annual rent of \$30,000, which is a 5% return on the tax assessed land value of \$546,000. The State's initial appraisal for the rent was \$38,000, or a 7% return.

⁴ Lease extensions only give the State ground rent; the lessee continues to own the improvements in the extension period.

- D. Such other conditions as may be prescribed by the Chairperson, which are in the best interests of the State.

Respectfully Submitted,



Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

